

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
UNITED STATES OF AMERICA, :  
 : 10 Cr. 08 (JFK)  
 -against- :  
 : ORDER  
MAHMOUD REZA BANKI, :  
 :  
 Defendant. :  
-----X

**JOHN F. KEENAN, United States District Judge:**

I have held two hearings on the issue of detention or bail pending trial on January 11th and January 15, 2010. Multi-page submissions were received from the defense and the Government on January 19th and January 20, 2010 and unsolicited shorter submissions were received from each side on January 20, 2010. The submissions have been read.

I have carefully considered the factors set forth in 18 U.S.C § 3142(g) and conclude that there are no conditions or combination of conditions which will reasonably insure the attendance of the defendant at trial if he is released on bail.

50 U.S.C. § 1705, with which the defendant is charged, sets a maximum period of incarceration of 20 years and a maximum fine of \$1 million. According to the Government, the evidence against the defendant is

strong. The guideline range for this offense is 63 to 78 months, a considerable period of incarceration.

The Pretrial Services Agency, and counsel on both sides, confirm that this 33-year old defendant is a native of Teheran, Iran and that although an American citizen since 1996, he is single, has no children and his parents, brother and other relatives reside in Iran. He traveled to Iran as recently as August 2008. He is unemployed presently. His community ties are weak. His mother and brother returned to Iran on October 14, 2009.

United States v. Sabhnani, 493 F.3d 63 (2d Cir. 2007), cited by the defendant in his effort to have bail fixed, is different factually from this case. There the defendants, both American citizens, had been in the United States for 25 and nearly 35 years, respectively. They had four children ranging from 17 to 23 years of age, all of whom were American citizens (p. 65).

Although the defendant resides with a female, who is a Canadian citizen, I do not believe that this is an adequate incentive to prevent his flight or sufficient reason to grant bail. She, as the Government points-out, is here only on a temporary visa and will have to return to Canada when her educational training is completed.

The Government points-out at p. 4 of its January 20th submission, that it has circumstantial evidence that defendant went through Canada to get to Iran.

In going through the defendant's belongings, the Government uncovered documents showing examples of false identification cards and papers which are available to people who wish to change or mask their identity. These Canadian documents proclaimed: "We Can Create Custom Identification Cards" "Any Country," "Any State, etc." The defense discounts these documents which contain 54 examples of false identification cards as being from the 1990s when Mr. Banki was a student at Purdue University in Indiana. The defense also writes to the Court on January 19, 2010:

"In addition, in response to the Government's production of the Canadian ID mill pamphlet at Friday's hearing, my colleague Ben Quarmby phoned the listed number to investigate whether it remained a going concern. He discovered that the number lead (sic) to a call center company, and had not been associated with the Canadian ID company since March 2004."

I do not understand exactly what this means. In any event, the Canadian false identification papers clearly demonstrate that false travel and identification documents are available on the market in Canada and other places. Also, there is no explanation as to why

the defendant held on to this strange collection of photo identification cards for over ten years. The "Photo Identification Systems Canada" papers are affixed to this Order as Exhibit A.

Electronic monitoring, suggested by the defense, is hardly foolproof and the Government's January 20, 2010 submission cites some 140 people "who have fled" (p. 4) while subject to electronic monitoring. This is not very reassuring.

Further, the hiring of outside private security personnel to monitor to defendant, is not acceptable to this Court, certainly not in this case.

Although the Personal Recognizance Bonds offered by defendant's friends in the total of \$600,000 (with the possibility of going as high as \$1 million) are significant, I do not believe there is adequate assurance that this single, 33-year old native of Iran will not flee. The defendant has also offered to pledge his apartment as security, but the Government already has a lien on this apartment. Therefore, it is impossible to say that the defendant owns the apartment without encumbrance.

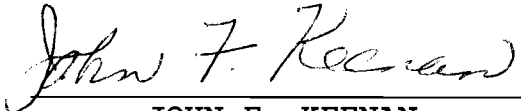
The defendant's submission of January 19th seeks to convince the Court that the defendant's family

in Iran opposes the present, political regime there and that this creates a disincentive for him to flee. News articles, correspondence from the defendant's aunt to the "Representatives of the Islamic Committee Assembly" and Iranian Court documents allegedly demonstrating the Iranian Government's legal action against the Banki Family's pharmaceutical company, do not really establish anything. The Government persuasively points-out that if the family were in serious difficulty with the present Iranian Government, that his mother and brother would hardly have returned there on October 14, 2009, some four months after the controversial June 2009 elections.

An early trial date of March 22, 2010 has been set.

Bail is denied.

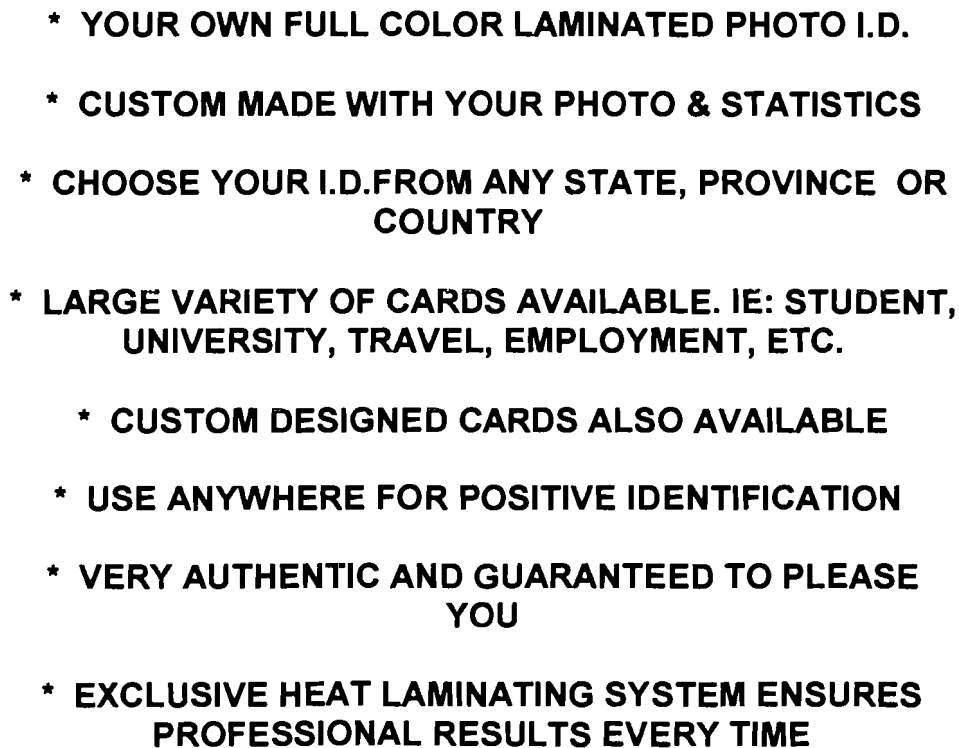
Dated: New York, New York  
January 21, 2010

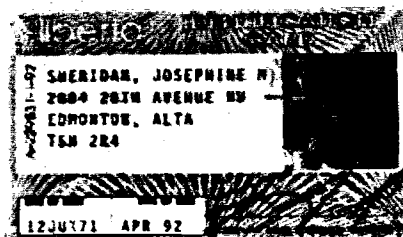
  
\_\_\_\_\_  
JOHN F. KEENAN  
United States District Judge

# **PHOTO IDENTIFICATION SYSTEMS CANADA**

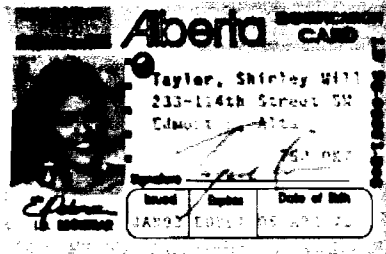
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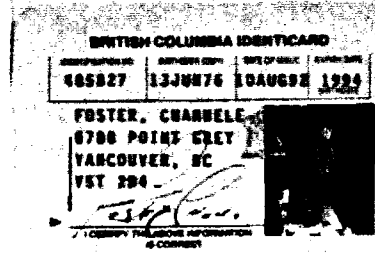
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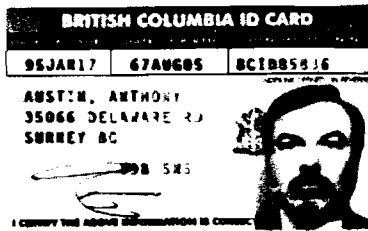
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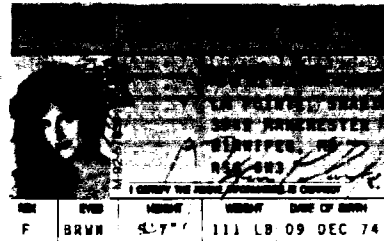
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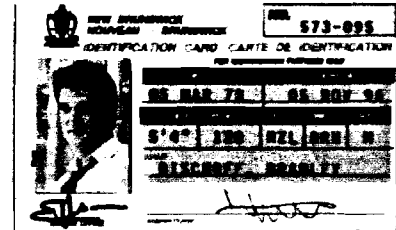
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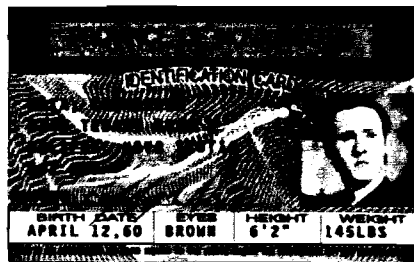
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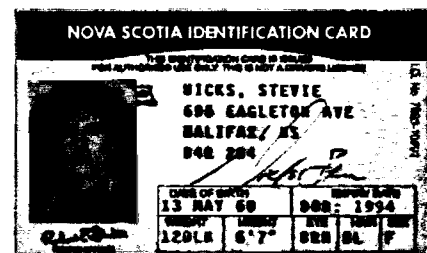
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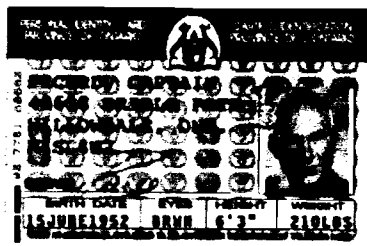
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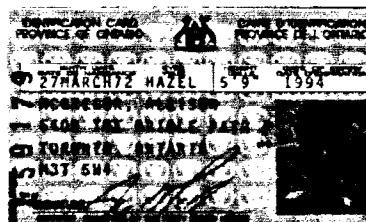
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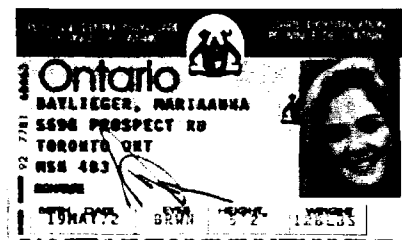
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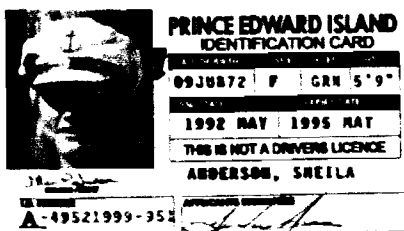
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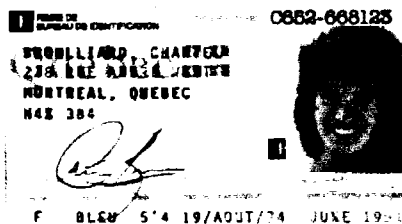
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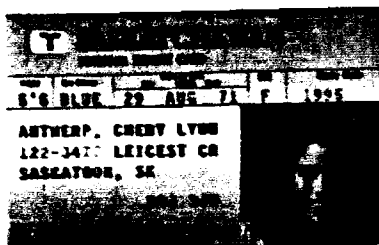
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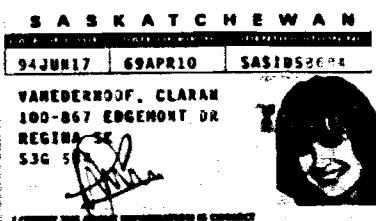
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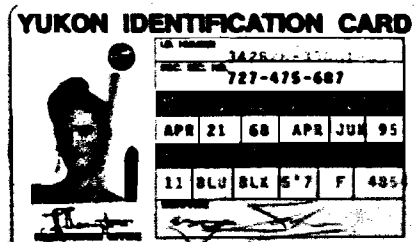
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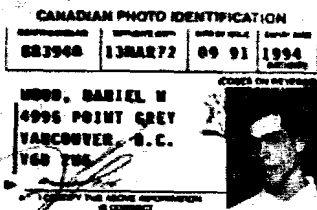
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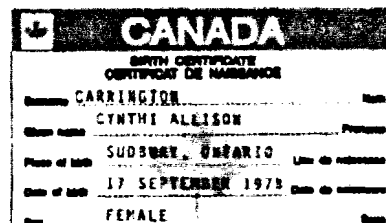
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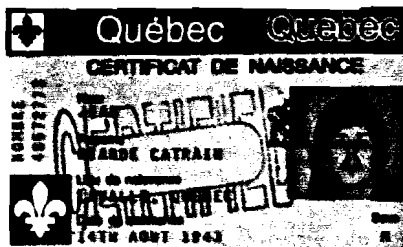
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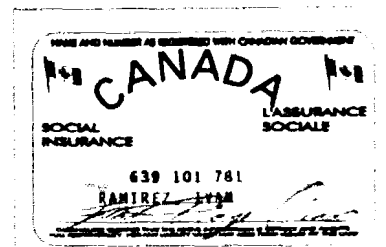
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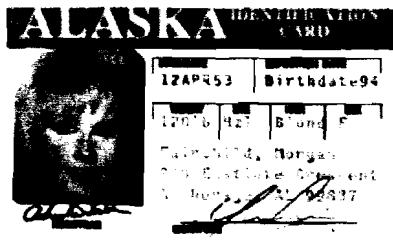
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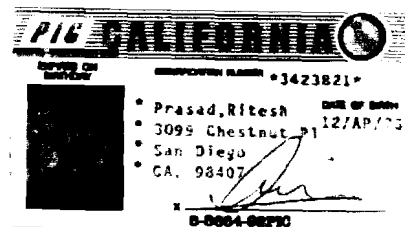
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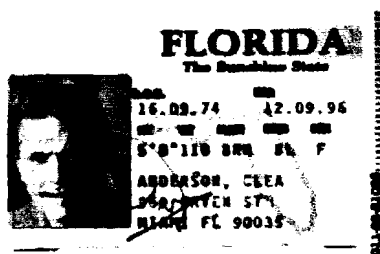
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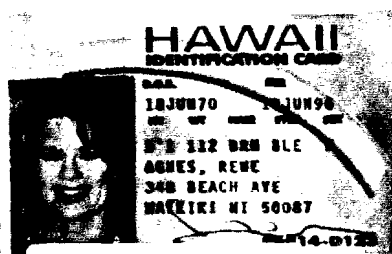
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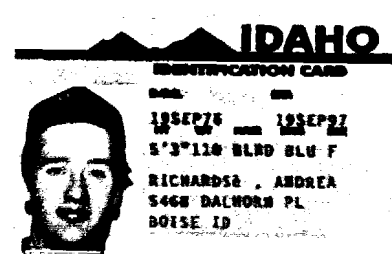
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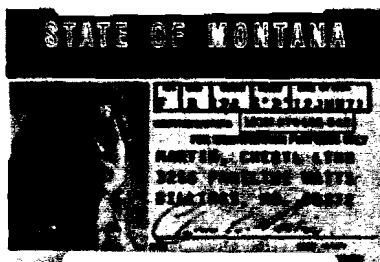
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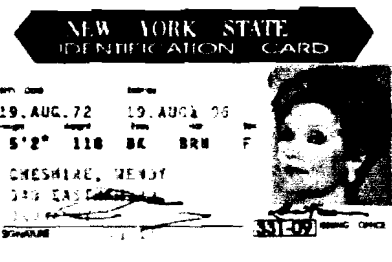
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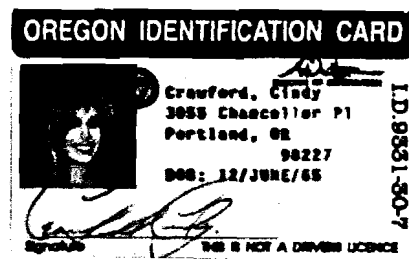
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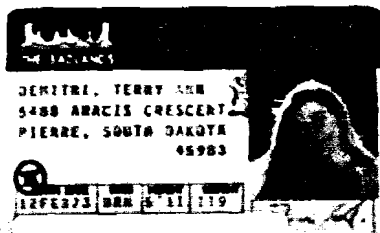
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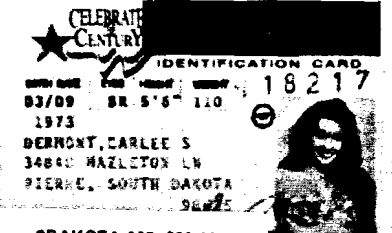
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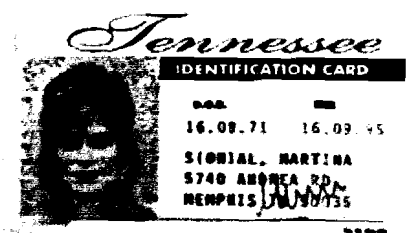
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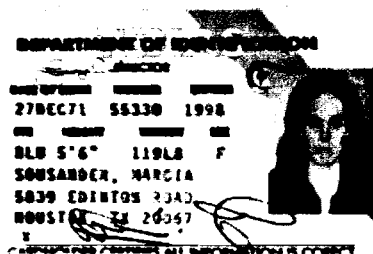


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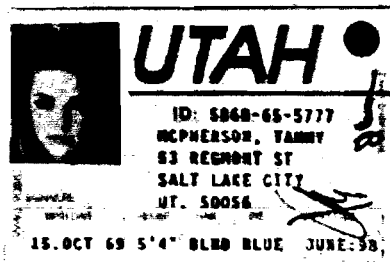


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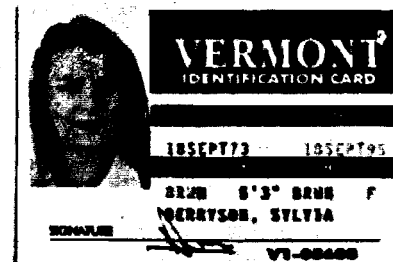




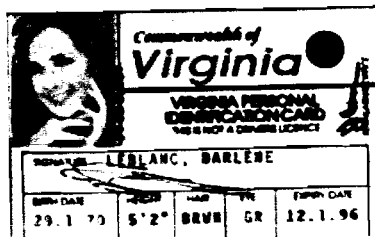
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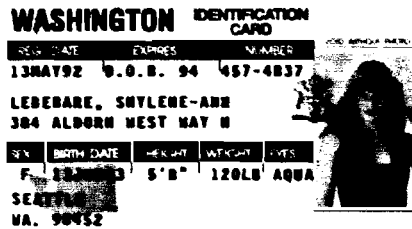
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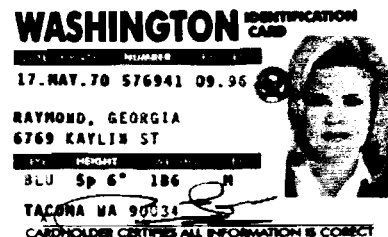
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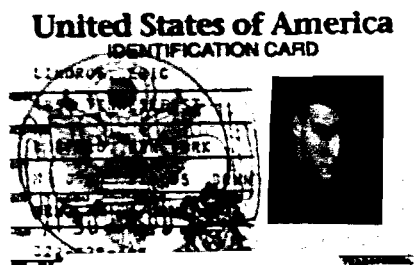
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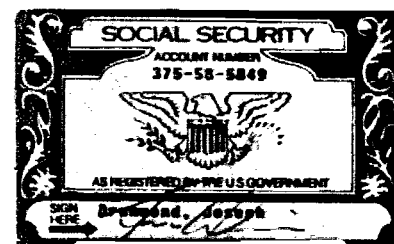
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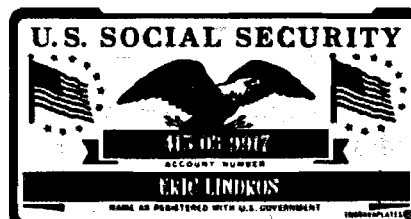
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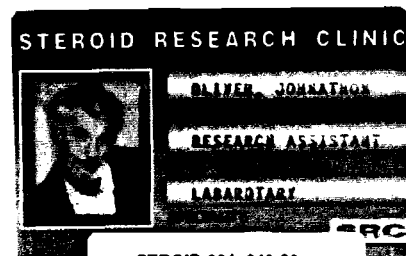
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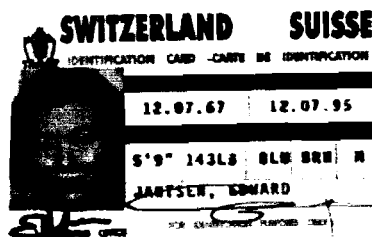
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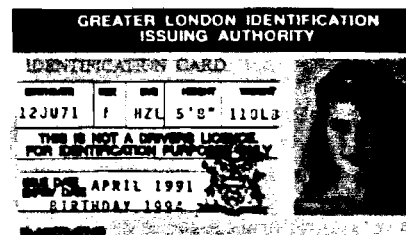
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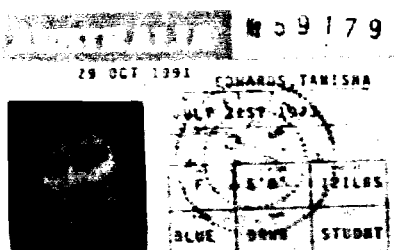
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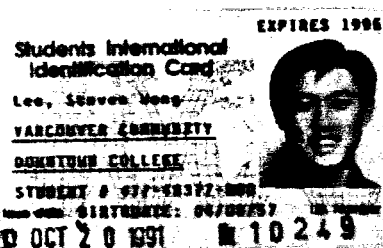
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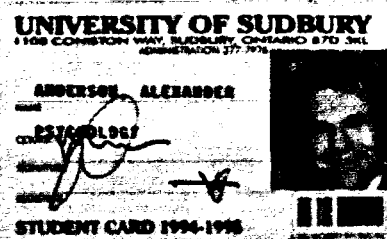
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